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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,538	02/09/2001	Quinn H. Lipin		5759
7590	04/06/2006		EXAMINER	
Quinn Lipin Net-U-Net, L.L.C. 16B Upham Street Newton, MA 02494			RETTA, YEHDEGA	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/779,538	LIPIN, QUINN H.
	Examiner	Art Unit
	Yehdega Retta	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06 December 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-22 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

This office action is in response to amendment filed December 6, 2005. Applicant amended claims 1-3 and added new claims 4-22. Claims 1-22 are currently pending.

### ***Specification***

The abstract of the disclosure is objected to because the abstract describes features that is not enable or described in the specification. The abstract discloses a “Clearinghouse” which is not specified in the specification. The abstract should sufficiently describe the disclosure to assist readers in deciding whether there is a need for consulting the full patent text for details.

Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 101***

Claims 1-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claim recites a clearinghouse site interconnected to the network and programmed to receive information and tracks transactions the customer makes with any merchant. The “clearinghouse” is only claimed in the abstract of the specification. The specification does not contain description of the feature, therefore lacks enablement requirement.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1-22, the claims a clearinghouse, however neither the specification nor the drawing indicates which of the features disclosed is the clearinghouse. Applicant is required to change the term “clearinghouse” in order to reflect what is disclosed. In order to apply prior art the term clearinghouse is interpreted as being the primary site (50) of applicant’s specification. Applicant is required to amend the claim.

Regarding claim 1, the claim recites a “clearinghouse” programmed to receive information ..., a “clearinghouse” sending information and programming to the customer site .... A “clearinghouse maintained search engine or listing of other sites ....It is unclear whether applicant is claiming more than one clearinghouse or one clearinghouse. Clarification is requested. For a purpose of applying a prior art, it is understood as one clearinghouse.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bezos et al. (US, 6,029,141).

Regarding claim 1 Bezos teaches customers interconnected to a network, each customer having a unique identification code (see col. 8 lines 17-32; an affiliate site (associate web site) with linking instruction about products or services at a merchant (associated web site), a clearinghouse (merchant website); customer may by choosing an information display on the Frame be transported to another merchant site, a non-merchant site, a clearinghouse or listing of other sites, wherein the clearinghouse maintains the customer identification code, tracks transactions the customer makes with any Merchant and tracks intelligence (data) related to the Affiliated-generated transactions for compensating a referring affiliated (see col. 1 line 62 to col. 2 line 65, col. 3 lines 8-42, col. 6 lines 1-58, col. 7 lines 6-53, col. 8 lines 1-16 col. 8 lines 49-67). Bezos does not explicitly teach the clearinghouse site sending information and programming to the customer site so that the superimposed upon part of the Merchant's site the customer sees other information within a Frame. However, official notice is taken that is old and well known in the art of WWW to provide framing technology. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide frames to enable a user to simultaneously view different Web site locations within a framed area on a single computer screen and without losing the user's connection to the framing page site since framing technology offers Web site owners with unique opportunities because each frame functions independently and permits the information to be displayed in only one frame on the computer screen without overwriting the content that is displayed in other frames on the computer screen. This permits the Web page owner (affiliate) to keep a shell of their own website around the host's site, so that the customers are not lured away from the site owner to the host's site.

Regarding claims 2 and 3, Bezos teaches affiliate may receive credit from multiple Merchants arising from transaction from initial and subsequent visits by the customer to the clearinghouse; customer that visits any affiliate site and selects a merchant display is transported both to the merchant's site and a Frame with additional information of possible interest to the customer (col. 11 line 1 to col. 12 line 63, fig. 8-10c).

Regarding claims 16-22, Bezos teaches interconnecting customers to a network, each customer having a unique identification code (see col. 8 lines 17-32); displaying information and linking instruction about products or services at a merchant (associated web site), interconnecting a clearinghouse (merchant website); to the network programmed to receive information regarding display of or selection of said information; enabling customer to be transported to another site from a group including a merchant, a non-merchant site, a search engine or listing of other sites, wherein the clearinghouse maintains the customer identification code, tracks transactions the customer makes with any Merchant and tracks intelligence (data) related to the Affiliated-generated transactions for compensating a referring affiliated (see col. 1 line 62 to col. 2 line 65, col. 3 lines 8-42, col. 6 lines 1-58, col. 7 lines 6-53, col. 8 lines 1-16 col. 8 lines 49-67). Bezos does not explicitly teach the clearinghouse site sending information and programming to the customer site so that the superimposed upon part of the Merchant's site the customer sees other information within a Frame. However, official notice is taken that is old and well known in the art of WWW to provide framing technology. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide frames to enable a user to simultaneously view different Web site locations within a framed area on a single computer screen and without losing the user's connection to the framing page site since framing technology

offers Web site owners with unique opportunities because each frame functions independently and permits the information to be displayed in only one frame on the computer screen without overwriting the content that is displayed in other frames on the computer screen. This permits the Web page owner (affiliate) to keep a shell of their own website around the host's site, so that the customers are not lured away from the site owner to the host's site.

Claims 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bezos et al. (US, 6,029,141) further in view of Gupta (US 6,487,538).

Regarding claims 4-12, Bezos teaches compensation paid in response to an action, to an affiliate (associate), based on performance-based, percentage or depending on a particular business relationship (see abstract, col. 3 lines 19-42, col. 7 lines 45-50, col. 11 lines 12-15, col. 15 lines 61-67, col. 13 lines 1-8). Bezos does not explicitly indicate that the clearinghouse receiving compensation from each action. Gupta teaches that the web host receiving payment from the advertiser (any merchant or affiliate receiving service from the host site) (see col. 4 lines 45-51. Bezos teaches tracking the number of hits, including frequency of visits to a link (impression) (see col. 16 lines 20-26, col. 18 lines 30-38). Gupta teaches different payment schemes for online advertising, for example, an advertiser paying based on the number of times different users access a web site (referred to as hits or page impressions). Alternatively, an advertiser only paying if a user clicks on the advertiser's banner or icon and views the advertiser's web page (referred to as a click-through). Further, a web host also receiving payment based on any completed transactions that result from a click through (e.g., the web host receives a percentage of the payment received by the advertiser from the user) (referred to as

referral commissions). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for the Bezos site (merchant site) to receive payment from the merchants listed on the site (advertising), in order to earn profit from the service provided by the host site. Bezos teaches banners displayed on the information display (see fig. 8).

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bezos et al. (US, 6,029,141) further in view of Tobin (US 6,141,666).

Regarding claims 13-15, Bezos does not explicitly teach the tracking includes frequency of visits of sub-affiliates. Tobin teaches token appended as a parameter to all of the links, allowing information such as where the user's request originated from to be passed along as the user navigates through the site. Tobin teaches server tracking the number of orders placed by customers through the link (see col. 10 lines 29-63). Further, Tobin teaches the tokening.cgi process enables the site token information to be passed from page to page (see col. 11 lines 1-48). It would have been obvious to one of ordinary skill in the art at the time of the invention to implement Tobin's token system of enabling the token appended as a parameter to all of the links, allowing information such as where the user's request originated from (identification of a site from which a referral is obtained) to be passed along as the user navigates through the site, in Bezo's referral system, in order to pay compensation to all referring sites.

***Response to Arguments***

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Damico et al. (US 5,819,285) teaches compensation to referring site.

Messer (US 5,991,740) teaches earning revenue by placing a banner ad of a third party.

Ross, Jr. et al. (US 6,629,135) teaches affiliate commerce system and method.

Kanter teaches referral system using multi-level marketing.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YR

  
RETTA YEHDEGA  
PRIMARY EXAMINER